

REMARKS/ARGUMENTS

By this Amendment, claims 1, 13, and 23 are amended and claim 29 is added, leaving claims 2-12, 15-22, and 24-28 unchanged. Claim 14 was canceled in an earlier Amendment.

On page 2 of the Office Action, claims 1-7, 9, 13, 15, 16, 18, and 23-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,117,519, issued to Thomas. Further, on page 3 of the Office Action, claims 8, 10-12, 17, and 19-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Thomas.

Claim 1 is hereby amended, and calls for, among other things:

A support cushion comprising:

- an elastic core having a first surface, a second surface, and thickness defined by the first surface and the second surface;
- a first cover portion substantially entirely enclosing the elastic core;
- a pillow top surface adjacent the first surface of the elastic core, the pillow top surface including a plurality of foam strips; and
- a second cover portion at least partially covering the pillow top surface, the second cover portion attached to at least one of the first cover portion and the elastic core.

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a support cushion having an elastic core with a first cover portion substantially entirely enclosing the elastic core, and a pillow top surface adjacent the elastic core and including a plurality of foam strips, wherein a second cover portion at least partially covers the pillow top surface and attaches to at least one of the first cover portion and the elastic core.

In contrast, Thomas discloses a therapeutic mattress pad 11 adapted to cover a conventional mattress 13, wherein the mattress pad 11 includes pad-enclosing fabric sheets 39, 41, 43 and a rectangular skirt 19 covering the top and sides of the conventional mattress 13, respectively. Thomas fails to teach, describe, or suggest a support cushion having an elastic core

with a cover portion substantially entirely enclosing the elastic core, a pillow top surface adjacent the elastic core and including a plurality of foam strips, and a second cover portion that at least partially covers the pillow top surface and attaches to at least one of the first cover portion and the elastic core. Thomas also fails to suggest the desirability of such a support cushion, nor why or how the therapeutic mattress pad 11 disclosed in Thomas could be modified to provide such a support cushion.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of amended claim 1. Claims 2-12 are each ultimately dependent upon amended claim 1, and are allowable based upon amended claim 1, upon other features and elements claimed in claims 2-12 but not discussed herein, and for other reasons not discussed herein. Accordingly, the Applicant also respectfully requests withdrawal of the 35 U.S.C. § 102(b) and 35 U.S.C. § 103(a) rejections of claims 2-12.

Claim 13 is hereby amended, and calls for, among other things:

A pillow top layer for a support cushion having an elastic core, the elastic core having a length and a width wherein the length is greater than the width, the pillow top layer comprising:

a plurality of foam strips having a length, a width, and a thickness, the width of each foam strip is substantially the same as the width of the elastic core and greater than the length of each foam strip, wherein adjacent strips have parallel facing sides positioned side-by-side to define a substantially gapless structure, wherein the combined length of the plurality of strips is substantially the same as the length of the elastic core; and
wherein the strips are separated from one another by a layer of material.

Claim 23 is hereby amended, and calls for, among other things:

A support cushion comprising:

an elastic core; and

a pillow top portion adjacent to the core, the pillow top portion comprising a plurality of foam strips positioned side-by-side and separated from one another only by a material to form a non-continuous but gapless layer on top of the elastic core, wherein adjacent strips have parallel facing sides.

As described in greater detail in the present application as originally filed, some embodiments of the present invention provide a pillow top layer for a support cushion having an elastic core (amended claim 13), or a support cushion including an elastic core and a pillow top portion adjacent to the core (amended claim 23), wherein the pillow top layer or portion includes a plurality of foam strips having adjacent parallel facing sides, and wherein the foam strips (amended claim 23) or sides of the foam strips (amended claim 13) are separated by a material and are positioned side-by-side to define a substantially gapless structure.


In contrast, Thomas discloses a therapeutic mattress pad 11 having fabric sheets 39, 41, 43 stitched to define tubes 49, 51 in which pads 35, 37 are received. As best shown in Figs. 1-5, the pads 35, 37 and tubes 49, 51 have a domed cross-sectional shape, wherein a relatively large angle is defined between the opposite sides of each pad 35, 37. In other words, the sides of adjacent pads 35, 37 are at a substantial angle with respect to one another, rather than being parallel to one another. Accordingly, Thomas fails to teach, describe, or suggest a pillow top layer or a support cushion having a pillow top portion that includes a plurality of foam strips having adjacent parallel facing sides, wherein the foam strips or sides of the foam strips are separated from one another by a material and positioned side-by-side to define a substantially gapless structure.

Accordingly, and for other reasons not discussed herein, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 102(b) rejection of amended claims 13 and 23. Claims 15-22 and 24-28 are each ultimately dependent upon amended claims 13 and 23, respectively,

and are allowable based upon amended claims 13 and 23, upon other features and elements claimed in claims 15-22 and 24-28 but not discussed herein, and for other reasons not discussed herein. Accordingly, the Applicant also respectfully requests withdrawal of the 35 U.S.C. §102(b) and 35 U.S.C. §103(a) rejections of claims 15-22 and 24-28.

In view of the above amendments and remarks, the Applicant respectfully submits that the claims are patentably distinct over the prior art, that all the rejections to the claims have been overcome, and that the application is in condition for allowance. Entry of this Amendment is therefore requested. If any issues remain outstanding upon entry of this Amendment, the Examiner is respectfully requested to telephone the undersigned Applicant's Representative at (414) 225-8266.

Respectfully submitted,



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